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| 10/573,453 | 03/24/2006 | Kevin Williams | 10682.0011USWO | 2415 |

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| EXAMINER | |
|---|---|
| PLUMMER, ELIZABETH A | |
| ART UNIT | PAPER NUMBER |
| 3635 | |
| MAIL DATE | DELIVERY MODE |
| 07/06/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/573,453 | WILLIAMS ET AL. | |
| | Examiner | Art Unit | |
| | ELIZABETH A. PLUMMER | 3635 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *23 April 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,2,4-9,11,14,18 and 19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-9,11,14,18 and 19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/23/2009 has been entered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4-8, 11, 14, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Tudor-Pole (US Patent 3,378,973).

a. Regarding claim 1, Tudor-Pole discloses an elongate joining member made entirely from a resiliently flexible material (column 1, lines 42-50), said joining member configured for bridge a gap (Fig. 3,4) between a first and at least a second panel, each panel having a first surface and an opposed second surface, the joining member comprising a flange member (1), an extension member (11) extending from said flange member and at least one resilient retaining member (14) connected to said extension member, and having a first

biased configuration relation to said extension member, said at least one resilient retain member being moveable between said first biased configuration and a second different configuration (column 2, lines 16-30), said at least one resilient retaining member is insertable into said gap between the first and at least second panels, and further wherein when the at least one resilient retaining member is moved beyond said gap, it resiliently returns at least towards said first biased configuration relative to the extension member such that it engages at least a portion of the second surface of each panel and wherein said flange member is engageable with at least a portion of the first surface of each panel such that said flange member substantially bridges the gap between the first and at least second panels (Fig. 3), and wherein said flange member is moveable, or capable of being moved, from a substantially domed configuration to a substantially flat configuration (column1 , lines 36-41).

b. Regarding claim 2, the flange member comprises a main body defined on one side by a first surface for engaging said at least a portion of the first surface of both the first and second panels and a second opposing side that present the outward appearance of the joining member (Fig. 1,3).

c. Regarding claim 4, in the substantially flat configuration the first surface of the flange member is substantially flush with the two panels (Fig. 3).

d. Regarding claim 5, the extension member is relatively straight and extends from a proximal end adjacent the flange member to a distal end (Fig. 1).

e. Regarding claim 6, the at least one resilient retaining member comprises opposing first and second members each connected to and disposed at an angle relative to the extension member (Fig. 1).

f. Regarding claim 7, in said first preferential configuration, the first and second leg members (14) extend from a first end that is connected to the extension member to a second end that is spaced from the extension member (Fig. 1).

g. Regarding claim 8, the second end of the first leg is engageable with the second surface of the first panel and the second end of the second leg member is engageable with the second surface of the second panel. (Fig. 1).

h. Regarding claim 11, the retaining member includes a single leg member (14) connected to the extension member.

i. Regarding claim 14, Tudor-Pole discloses an elongate joining member (Fig. 1) for bridging a gap between a first and at least a second panel (Fig. 3), each panel having a first surface and an opposed second surface, the joining member comprising a flange member (1), and at least two resilient extension members (11) (Fig. 1) which extend from a first end connected to said flange to a second free end (Fig. 1), each resilient extension member further comprising at least one resilient retaining member (14) positioned at or adjacent to the second end (Fig. 1) and wherein said at least one resilient retain member being movable between a first biased configuration and a second different configuration (column 2, lines 14-30), said at least two resilient extension members are insertable into

said gap between the first and at least second panels, and further wherein when the resilient retaining members are moved beyond said gap it resiliently returns at least towards said first biased configuration relative to the extension member such that it engages at least a portion of the second surface of each panel and wherein the flange member is engageable with at least a portion of the first surface of each panel such that said flange member substantially bridges the gap between the first and at least second panels (Fig. 3), and wherein said flange member is moveable, or capable of being moved, from a substantially domed configuration to a substantially flat configuration (column1 , lines 36-41).

j. Regarding claim 18, Tudor-Pole discloses a joining member configured to bridge a gap between a first panel and a second panel, each panel having a first surface and an opposing second surface, the joining member comprising a flange (!) including a first outer surface and an opposing second surface, the flange can have a first configuration in which the first outer surface has a substantially domed configuration and a second configuration in which the first outer surface is substantially flat configuration (column 1, lines 36-41), an extension member (11) connected to the second surface of the flange at a proximal end and including an opposing distal end (Fig. 1), and a retaining member (14) connected to and extending from the distal end of the extension member, the retaining member including a first leg member having a first end and an opposing second end, wherein the first end of the first leg member is connected to the distal end of the extension member (Fig. 1), the retaining

member having an expanded configuration and a collapsed configuration, wherein the retaining member is in the collapsed configuration the second end of the first leg is close to the extension member than when the retaining member is in the expanded configuration (column 2, lines 14-30).

k. Regarding claim 19, Tudor-Pole discloses a joining member comprising a flange (1) including a first surface, an extension member (11) having a proximal end attached to the flange and a distal end, and a resilient retaining member (14) attached to the distal end of the extension member and extending generally back toward the flange so as to form an angle with the retaining member (Fig. 1), wherein the joining member includes a first position and a second position when in use (while being inserted into the gap and before being inserted in the gap), wherein the when the joining member is in the first position, the first surface of the flange can have a domed shape and the retaining member is in a collapsed configuration such that the angle is a first angle, and wherein when the joining member is in the second position, the first surface of the flange is substantially straight and retaining member is in an expanded configuration such that the angle is a second angle that is larger than the first angle (column 1, 37-41; column 2, lines 14-30).

***Claim Rejections - 35 USC § 103***

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tudo-Pole (US Patent 3,378,973) in view of Yamamoto (JP 06185129). Regarding claim 9, Tudor-Pole discloses the invention as claimed except for the second end of the

first and second leg members including a grooved or serrated face to engage the second surface of the panels. However, it is well known in the art that legs can include a grooved or serrated face. For example, Yamaoto teaches an elongate joining member (11) for bridging a gap between a first and at least a second panel (1) (Fig. 2,6), each panel having a first surface and an opposed second surface, the joining member (11) comprising a flange member (13), an extension member (16) extending from said flange and at least one resilient retaining member (21) connected to said extension member (Fig. 3,6,9), and having a first biased configuration relative to said extension member, said at least one resilient retain member being movable between said first biased configuration and a second different configuration (abstract), said at least one resilient retaining member is insertable into said gap between the first and at least second panels (abstract; Fig. 3), and further wherein when the at least one resilient retaining member is moved beyond said gap it resiliently returns at least towards said first biased configuration relative to the extension member such that it engages at least a portion of the second surface of each panel (Fig. 6) and wherein the flange member is engageable with at least a portion of the first surface of each panel such that said flange member substantially bridges the gap between the first and at least second panels (abstract), wherein the second end of the first and second leg members include a grooved face (Fig. 6) to engage the second surface of the panels. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tudor-Pole to modify the second end of the first and second leg

members to include a grooved or serrated face to engage the second surface of the panels, such as taught by Yamaoto, in order to make the legs retain better.

***Response to Arguments***

5. Applicant's arguments filed 04/23/2009 have been fully considered but they are not persuasive. Regarding applicant's first argument, that the flange member is not moveable from a substantially domed configuration to a substantially flat configuration, the examiner respectfully disagrees. First, the language of claim 1 reads "is moveable...", which is interpreted as capable of being moved. Here, it is clear that the flanges can be moved. While the prior art does not state the 0 degrees is the ideal angle, the flange is still capable of being moved to 0 degrees. Because the claim as written only requires having the function of being moved flat, Tudor-Pole still inherently meets the claims. Similarly, claim 14 also only uses functional language, and the two configurations of claims 18 and 19 can inherently be meet by the structure disclosed. Regarding applicant's argument that claim 1 recites "when the at least one resilient retaining member is moved beyond said gap", the applicant is once again relying on functional language ("for brigading a gap", "being moveable", "is insertable"). Applicant's arguments, however, are written as if the gap and the panels were positively claimed in combination. Here, the structure is still inherently capable of being moved beyond a gap, and when moved beyond said gap, it would return to a first biased configuration, engage a second surface of a panel, etc. Regarding applicant's arguments that the retaining member is not resilient, the metal disclosed is inherently resiliently flexible.

### *Conclusion*

6. This is a continued examination of Application No. 10/573,453. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### *Contact Information*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. PLUMMER whose telephone number is (571)272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeanette E Chapman/
Primary Examiner, Art Unit 3633

/E. A. P./
Examiner, Art Unit 3635